

REPRESENTATIVE FOR PETITIONER:

Paul M. Jones, Jr., Attorney

REPRESENTATIVES FOR RESPONDENT:

Marilyn S. Meighen, Attorney

Brian Cusimano, Attorney

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

TLC PROPERTIES, INC.,	)	Petition Nos.: 45-018-15-1-5-01442-16
	)	45-018-16-1-5-01227-17
Petitioner,	)	
	)	Parcel No. 45-08-26-128-023.000-018
v.	)	
	)	County: Lake
LAKE COUNTY ASSESSOR,	)	
	)	Assessment Years: 2015, 2016
Respondent.	)	

**February 4, 2019**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**I. INTRODUCTION**

1. TLC attempted to voluntarily dismiss these petitions just eight days prior to hearing. Because the Assessor demonstrated he incurred substantial expense in preparation for this hearing and that dismissal would prejudice him, we deny TLC’s voluntary dismissal and address the merits. The Assessor offered a valuation opinion for the parcel before us

from appraiser David Hall.<sup>1</sup> TLC cast some doubt on the reliability of Hall’s underlying data, but his appraisal is still credible. Because TLC failed to successfully impeach the credibility of Hall’s appraisal and elected to offer no valuation evidence of its own, we find Hall’s appraisal offers the best evidence of value. Accordingly, we order the assessments under appeal changed to reflect Hall’s value conclusions.

## II. PROCEDURAL HISTORY

2. TLC contested its 2015 and 2016 assessments. The Lake County Assessor determined the following assessments<sup>2,3</sup>:

Year	Parcel Number	Parcel Name	Land	Improvements	Total
2015	45-08-26-128-023.000-018	Site #1	\$38,800	\$0	\$38,800
2016	45-08-26-128-023.000-018	Site #1	\$38,200	\$0	\$38,200

3. On December 15, 2017, our designated administrative law judge, Jacob Robinson (“ALJ”), adopted the parties’ joint case management plan, which, among other things, consolidated the 2015 and 2016 appeals for purposes of hearing.
4. Our ALJ conducted a hearing on March 8, 2018. Neither he nor the Board inspected the parcel.
5. Appraisers David Hall and Richard Correll testified under oath.

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<sup>1</sup> Although an additional appraiser, Michael Lady, also signed the appraisal offered by the Assessor, Hall was the only one who testified. For simplicity, we will refer to the appraisal as Hall’s.

<sup>2</sup> TLC elected to appeal its assessments for 2015 and 2016 directly to the Board after the Lake County Property Tax Assessment Board of Appeals (“PTABOA”) failed to issue determinations within 180 days of it filing notices of appeal. *See* Ind. Code § 6-1.1-15-1.2(k) (allowing taxpayers to appeal to the Board if the county board has not issued a determination within 180 days of the date the notice of appeal was filed). While the PTABOA issued a Form 115 determination addressing the 2015 assessment, it did so after TLC had already appealed that assessment to us. We therefore treat it as a nullity.

<sup>3</sup> Throughout the hearing, the parties and their appraisers primarily referred to the parcel as Site #1. For ease of reference, we will as well.

6. TLC submitted the following exhibits:

- Exhibit P-A: Affidavit of Bonnie Adams
- Exhibit P-B: Property Record Cards for Sites
- Exhibit P-C: Affidavit of Louis H. O'Donnell
- Exhibit P-D: Photographs of Sites
- Exhibit P-E: Work file of Richard Correll
- Exhibit P-F: Demonstrative graph - Price per Square Foot v. Traffic Counts
- Exhibit P-G: Sales Disclosure Form - 2300 Howard Street

7. The Assessor submitted the following exhibits:

- Exhibit A: Appraisal Report prepared by David Hall for Site #2
- Exhibit B: Demonstrative graph - Impact of Traffic Counts on Sale Price
- Exhibit C: Sales Disclosure Form for Parcel 45-08-13-331-004.000-020
- Exhibit D: Contract of Sale for 2670 Fry Street
- Exhibit E: Aerial photograph for 2670 Fry Street
- Exhibit F: Additional sale data for Ripley Street
- Exhibit G: Excerpt from The Appraisal of Real Estate - Relative Comparison Analysis
- Exhibit H: Appraisal Report prepared by David Hall for Site #4
- Exhibit I: Sales Disclosure Form - 2300 Howard Street
- Exhibit J: Appraisal Report prepared by David Hall for Site #5
- Exhibit K: 2014 Property Record Card for Site #3
- Exhibit L: 2015 Property Record Card for Site #3
- Exhibit M: Appraisal Report prepared by David Hall for Site #3
- Exhibit O: 2014 Property Record Card for Site #6
- Exhibit P: 2015 Property Record Card for Site #6
- Exhibit Q: Appraisal Report prepared by David Hall for Site #6
- Exhibit R: Appraisal Report prepared by David Hall for Site #1
- Exhibit S: Demonstrative graph – Comparison of Market Areas
- Exhibit T: Demonstrative graph – Comparison of Traffic Counts

8. The record also includes the following: (1) the testimony and evidence from three related cases captioned as *TLC Properties, Inc. v. Lake County Assessor* that addressed Site #'s 2, 3, 4, 5, and 6<sup>4</sup> (2) all pleadings, motions, briefs, and documents filed in this appeal,

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<sup>4</sup> Those cases involved 10 Form 131 petitions (see attached list) for five different parcels used as billboard sites in Lake County. The parties agreed to incorporate all of the testimony and evidence from the hearings on those petitions into this case. The witnesses referenced their testimony from those hearings indicating what was applicable to this appeal, while highlighting any differences. We will reference the incorporated testimony by adding “Site #'s 2, 4, 5”, “Site #3”, or “Site #6” to the citation, as appropriate (For example—*Hall testimony-Site #'s 2, 4, 5*). In addition to the exhibits we incorporate from the previous hearings, we note that the Assessor submitted three additional exhibits as part of this case—Exs. R, S, and T. The Assessor did not offer an Exhibit N.

including the parties' post-hearing briefs; (3) all orders and notices issued by the Board or our ALJ; and (4) an audio recording of the hearing.

### III. FINDINGS OF FACT

#### A. The Parcel

9. Site #1 has an address of 2028 E. 39<sup>th</sup> Avenue in Hobart. It is located along the west side of Interstate 65, at the northeast corner of 39<sup>th</sup> Avenue and Missouri Street. The rectangular site is 0.56 acres (24,437 SF) in size. It has approximately 125 feet of frontage along Interstate 65 and Missouri Street, as well as 198 feet of frontage along 39<sup>th</sup> Avenue, which provides direct access to the site. As of the dates of valuation, the site was improved with a two-sided monopole billboard sign facing Interstate 65. It is zoned as B-3, Highway Oriented Business District. Although B-3 zoning does not permit outdoor advertising, the existing use is a legal non-conforming use. Site #1 is also improved with paved areas. It had total traffic counts of 106,280 in 2015 and 110,992 in 2016. *Hall testimony; Resp't Ex. R at 4, 31-35.*

#### B. Expert Opinions

##### 1. Hall's Appraisal

10. The Assessor offered an appraisal report from Hall. He is an Indiana Certified General Real Estate Appraiser and Managing Director of Integra Realty Resources–Indianapolis. Additionally, Hall holds the MAI and AICP designations. Hall certified that he appraised the property and prepared his report in conformity with the Uniform Standards of Professional Appraisal Practice (“USPAP”). Hall performed an appraisal of the retrospective market value-in-use of the parcel's fee simple interest as of March 1, 2015. He then trended his 2015 value conclusion to determine the parcel's retrospective market value-in-use as of January 1, 2016. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 4, 78-81, 82-83.*

**a. Hall's Market Overview**

11. Hall provided an overview of the parcel's market, including an economic and demographic analysis and a market segmentation analysis. Although Hall found mixed economic indicators for Lake County, he anticipated relatively stable trends for the parcel's market area as of the relevant valuation dates. Based on his market segmentation analysis, Hall concluded that the parcel's primary use was for outdoor advertising. And he determined that its primary market area was Lake County. While the spectrum of competitive properties includes sites with buildings, he felt true substitute properties were limited to existing billboard sites or potential billboard sites. Hall described the parcel as having good access to supporting properties generating vehicular traffic and demand for outdoor advertising. He also thought that prevailing demand trends would likely stimulate a gradual increase in the value of both the sign structure and the site. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 11-29.*

12. The market segmentation analysis helped Hall identify the following criteria for use in selecting comparable sales:

Property type:	Land
Location:	Indiana
Site size:	Up to 3.50 acres per site or sign structure
Frontage:	Interstate highway or U.S. highway

*Resp't Ex. R at 29.*

13. Hall also explained that because Indiana's market value-in-use standard requires the value to reflect a property's current use, a determination of the parcel's highest and best use is irrelevant. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 45.*

**b. Hall's Sales Comparison Approaches**

14. Hall found Indiana Code § 6-1.1-4-45 to be applicable to his appraisal assignment. Hall therefore disregarded the value of the billboard sign, along with any associated leases, easements, and income in his appraisal. Because disregarding those elements means only

land is being valued, Hall found the cost and income approaches were inapplicable. Hall relied solely on the sales comparison approach. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 6-9, 46-47.*

15. Hall used three different valuation analyses to derive his opinion of value. In what he labeled Valuation #1, Hall included comparable sales of sites with existing billboards, sites acquired for outdoor advertising, and sites capable of supporting a billboard. For Valuation #2, he narrowed the comparable sales in his analysis to sites with existing billboards and sites acquired for outdoor advertising. And as a test of reasonableness for his two primary valuation analyses, Hall completed Valuation #3. For that analysis, he took a single sale of an existing billboard site and deducted the contributory value of the billboard sign to derive a value for the land. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 46-47.*

**i. Valuation #1 – Comparable Sites**

16. For Valuation #1, Hall searched for and selected nine comparable sales meeting the criteria identified in his market segmentation analysis. The following chart summarizes some of their relevant characteristics:

Property	Comp. 1	Comp. 2	Comp. 3	Comp. 4	Comp. 5	Comp. 6	Comp. 7	Comp. 8	Comp. 9
Name	Billboard Site	Billboard Site	Billboard Site	Billboard Site	Interstate Frontage	Interstate Frontage	Billboard Site	Billboard Site	Interstate Frontage
Address	4702-4704 W. 27 <sup>th</sup>	2670 Frye St.	10928 Wicker Ave.	5701 E. 81 <sup>st</sup> Ave.	Interstate 70	E. 625 N.	Interstate 69	E. Co. Rd 100 N.	5 E. 800
City	Gary	Lake Station	Cedar Lake	Merrillville	Clayton	Fremont	Warren	Marion	West Lafayette
County	Lake	Lake	Lake	Lake	Hendricks	Steuben	Huntington	Grant	Tippecanoe
Sale Date	Feb. 2013	Nov. 2012	Oct. 2008	Oct. 2014	Aug. 2015	Mar. 2004	Feb. 2009	Jan. 2012	June 2014
Sales price	\$102,500	\$150,000	\$250,000	\$65,000	\$16,380	\$40,000	\$15,000	\$82,500	\$42,000
Sq. Feet	6,858	26,702	52,882	32,539	30,492	84,506	36,503	66,538	149,642
Acres	0.157	0.613	1.214	0.747	0.700	1.940	0.838	1.528	3.436
Traffic Count	188,723	102,063	22,343	30,808	32,017	20,540	28,339	28,977	35,714
MSA	Chicago	Chicago	Chicago	Chicago	Indpls.	--	--	--	--
Price/Sq. Ft.	\$14.95	\$5.62	\$4.73	\$2.00	\$0.54	\$0.47	\$0.41	\$0.31	\$0.28

*Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 48-50.*

17. Hall testified that whether the 2012 sale of Comp #2 included anything more than just land depends on the source one looks at. Based on his review of the sales disclosure form, Hall thought it was only a land transaction. He noted that the form shows the estimated value of personal property was \$0, and it has no information in the two sections available for describing unusual or special circumstances. But Hall ultimately admitted that he did not know whether the sale included anything other than the land. He also disclosed that he did not contact either party to verify the transaction. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. C.*
  
18. As with the sales disclosure form, Hall saw no indication in Comp #2's purchase agreement that the sale included anything beyond just land. However, Hall later acknowledged that the purchase agreement possibly included the transfer of INDOT and local billboard permits, along with other rights appurtenant to the real property. Nevertheless, Hall opined that such permitting costs would have had no material impact on his value conclusions. According to the City of Lake Station's building department, the cost to acquire a permit for a hypothetical \$150,000, 2-sided monopole billboard would be \$1,480 plus a \$25 application fee for a zoning change (approx. \$1,500 total), or about 1% of the purchase price. Hall also stated that he viewed the digital aspect as a "separate animal", and concluded that he did not see any significant difference between the property's value as a digital versus non-digital billboard site. When Hall inspected the site in 2017, he saw no evidence of a digital billboard sign or advertising. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. D.*
  
19. Hall used a qualitative analysis to adjust his comparable sales for a number of factors including real property rights, market conditions, traffic counts, and accessibility, rating each sale as inferior, superior, or similar to Site #1. Specifically, he made a downward adjustment to Comp #1 for real property rights because it was likely a leased-fee transaction. Comp #1 also received a downward adjustment due to its superior traffic counts, and an upward adjustment for accessibility. Hall applied positive traffic count

adjustments and negative accessibility adjustments to Comp #'s 3 and 4. And Comp #'s 5-9 all received positive accessibility, traffic count, and market adjustments due to their lower traffic counts and the relative inferiority of markets outside of the Chicago MSA. Additionally, Hall applied a positive market conditions adjustment to Comp #6 to account for the fact that it sold during a period of strong demand for land in Lake County that ran from 2004 to 2008. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 54-60.*

20. Hall also responded to questions that arose in the prior hearings regarding whether or not the unit price (\$/SF) should be different based on differences in site size. Hall clarified that based on the data available he did not see any evidence that variations in site size explained differences in unit price. He gave an example using Comp #'s 8 and 9. Comp #8 had a traffic count of approximately 29,000 and sold for \$0.31/SF. Comp #9's traffic count was approximately 35,700, and it sold for \$0.28/SF. But they are significantly different in size, with Comp #9 being twice the size of Comp #8. If differences in size explained differences in price, you would expect to see a much greater difference in their sales prices. *Hall testimony-Site #6; Resp't Ex. R at 60.*
21. In discussing his traffic count adjustments, Hall noted that industry sources view traffic counts as a driving force behind pricing for outdoor advertising because as volumes increase, so do the advertising opportunities. Hall also discussed a chart analyzing the correlation between sales price and traffic count for Site #'s 1-6 and his comparable sales. His analysis indicated that higher traffic counts strongly correlate with higher sales prices. *Hall testimony-Site #'s 2, 4, 5; Resp't Exs. B, R at 56-57.*
22. Hall also summarized his analysis using two additional charts illustrating comparisons between his comps and all six of the sites under appeal in terms of traffic counts and market areas. He noted that the comps from the Chicago MSA and the six sites he valued fell within a similar range of value, while the comps from the more rural areas sold for relatively low sales prices by comparison. Similarly, the comps from the Chicago MSA

and the six sites he valued had significantly higher sales prices and traffic counts, whereas Comp #'s 5-9 had lower sales prices that correspond with their low traffic counts. *Hall testimony; Resp't Exs. S, T.*

23. The sales prices for Hall's comps ranged from \$0.28 to \$14.95/SF. Overall, Hall ranked Comp #'s 2-4 as the most similar to Site #1, with Comp #'s 5-9 deemed inferior. In contrast, Comp #1 was the most superior to Site #1 and sold for the highest price per square foot of all the comparable sales. Although Hall stated in his appraisal that he gave Comp #1 less weight in his final reconciliation due to the site's lease and significantly higher traffic counts, he testified that he did not use the sale for valuation purposes. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 60-61.*
24. In his reconciliation, Hall gave the greatest weight to the average sales price of Comp #'s 2-4 and the midpoint produced by all of his comps (excluding Comp #1). Averaging the sales prices of Comp #'s 2-4 produced a value of \$4.11/SF, while the midpoint between Comp #'s 2 and 9 was \$2.95. Hall averaged these two metrics together, producing a mean value of \$3.53/SF. Multiplying that value by Site #1's 24,437 square feet resulted in an indicated value of \$86,000 (rounded) as of March 1, 2015. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 61.*

## **ii. Valuation #2 – Comparable Billboard Sites**

25. Hall's second valuation method incorporated the comparable data from the five sites used in Valuation #1 acquired for outdoor advertising or improved with a billboard structure at the time of sale. For purposes of Valuation #2, Hall renumbered those sites (identified as Comp #'s 2, 3, 4, 7, and 8 in Valuation #1) as Comp #'s 1-5. The following chart summarizes some of their relevant characteristics:

Property	Comp. 1	Comp. 2	Comp. 3	Comp. 4	Comp. 5
Name	Billboard Site	Billboard Site	Billboard Site	Billboard Site	Billboard Site
Address	2670 Frye St.	10928 Wicker Ave.	5701 E. 81 <sup>st</sup> Ave.	Interstate 69	E. Co. Rd 100 N.
City	Lake Station	Cedar Lake	Merrillville	Warren	Marion
County	Lake	Lake	Lake	Huntington	Grant
Sale Date	Nov. 2012	Oct. 2008	Oct. 2014	Feb. 2009	Jan. 2012
Sales price	\$150,000	\$250,000	\$65,000	\$15,000	\$82,500
Sq. Feet	26,702	52,882	32,539	36,503	66,538
Acres	0.613	1.214	0.747	0.838	1.528
Traffic Count	102,063	22,343	30,808	28,339	28,977
MSA	Chicago	Chicago	Chicago	--	--
Price/Sq. Ft.	\$5.62	\$4.73	\$2.00	\$0.41	\$0.31

*Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 62-63, 69.*

26. To derive his opinion of value, Hall took the same two measures of central tendency used in Valuation #1—the average sales price and the midpoint of the range. Averaging the sales price of Comp #'s 1-5 produced a value of \$2.61/SF, while their midpoint was \$2.96/SF. Hall then averaged these two metrics together, producing a mean value of \$2.79/SF. Multiplying that value by Site #1's 24,437 square feet resulted in an indicated value of \$68,000 (rounded) as of March 1, 2015. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 69-70.*

### **iii. Valuation #3 – Comparable Billboard Site and Sign**

27. In Hall's third valuation method, he analyzed the October 2011 sale of an existing billboard site located at 2300 Howard Street in Lake Station. Like Site #1, this site is in the Chicago MSA and has a two-sided monopole billboard sign with exposure along an Interstate. At 0.57 acres, it is almost exactly the same size as Site #1, and it had a slightly lower traffic count of 102,063 in 2015. The sales disclosure form Hall obtained indicated that the parties transferred personal property as part of the sale, but the parties did not allocate a specific value to the billboard sign. Hall acknowledged that he did not contact either of the parties to the transaction. He was also previously unaware of the signed

copy of the sales disclosure form submitted by TLC showing the parties allocated the purchase price as being \$2,000 for the land and \$130,000 for the personal property. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 71-75; Resp't Ex. I; Pet'r Ex. P-G.*

28. Hall used the abstraction method to derive a value indication for the land. This method deducts the contributory value of the billboard sign from the actual sales price. According to county permit records, the sign's estimated cost new was approximately \$55,000 in 2006. And the three industry sources Hall consulted estimated the replacement cost of a billboard sign structure to be between \$38,500 and \$147,700. *Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 74-75.*
29. Using the permit and industry data, Hall estimated the sign's replacement cost (as if new) to be \$65,000. And based on a life expectancy of 40-50 years and its age at the time of sale (5 years), he estimated the sign's depreciation to be 10% (or \$6,500). The resulting contributory value estimate for the sign was \$60,000 (rounded). Subtracting that estimate from the site's total sales price of \$132,000 produced a value for the land of \$2.88/SF. Multiplying that value by Site #1's 24,437 square feet resulted in an indicated value of \$70,000 (rounded) as of March 1, 2015. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 74-75.*

**c. Hall's 2015 Reconciliation and 2016 Valuation**

30. Hall averaged the results from his three valuation methods, reconciling to a price of \$3.00/SF. Multiplying that value by Site #1's 24,437 square feet produced a value conclusion of \$73,000 (rounded) as of the March 1, 2015 valuation date. The following chart illustrates the results of his three valuation methods and his reconciliation:

<b>Valuation Method</b>	<b>Indicated Value per Square Foot</b>	<b>Indicated Value</b>	<b>Indicated Value (rounded)</b>
<b>#1</b>	\$3.53	\$86,263	\$86,000
<b>#2</b>	\$2.79	\$68,180	\$68,000
<b>#3</b>	\$2.88	\$70,379	\$70,000
<b>Reconciled</b>	\$3.00	\$73,311	\$73,000

*Hall testimony; Resp't Ex. R at 76.*

31. To develop his opinion of value for the January 1, 2016 valuation date, Hall applied a market conditions adjustment to his 2015 value conclusion. He based his adjustment on his analysis of economic and demographic trends in Lake County, trends in the outdoor advertising industry, and the year-over-year changes in Site #1's traffic counts. Based on that information, Hall made an upward adjustment of 2.0%. Applying that adjustment to his 2015 conclusion produced a value conclusion of \$74,460 as of January 1, 2016. *Hall testimony; Hall testimony-Site #'s 2, 4, 5; Resp't Ex. R at 78-81.*

32. Hall's final value conclusions for Site #1 are summarized as follows:

<b>Year</b>	<b>Parcel Number</b>	<b>Parcel Name</b>	<b>Land</b>	<b>Improvements</b>	<b>Total</b>
<b>2015</b>	45-08-26-128-023.000-018	Site #1	\$73,000	\$0	\$73,000
<b>2016</b>	45-08-26-128-023.000-018	Site #1	\$74,460	\$0	\$74,460

*Hall testimony; Resp't Ex. R at 76, 81.*

## **2. Correll's Review Appraisal**

33. TLC engaged Correll, principal of Correll Commercial Real Estate Services, to review Hall's appraisal. Correll has been appraising property for over 30 years. He was previously employed as an appraiser and senior consultant with firms in Chicago and Los Angeles. He has appraised a large number of retail properties and several billboard

properties. Correll is currently a licensed certified general appraiser in Indiana and several other states. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 11.*

34. Correll did not conduct or write an independent appraisal, and he did not develop valuation opinions. Nor did he attempt to replicate Hall's numbers or results. Correll stated that his sole assignment was to review Hall's appraisal to form an opinion of whether the results are credible. He conducted his review in compliance with USPAP Standard 3. Correll did not prepare a written review appraisal, but he did develop a detailed work file, including appraiser notes and exhibits. Correll added that he did not personally visit Site #1 or any of Hall's comps. *Correll testimony-Site #6; Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 1-3.*
  
35. Correll agreed that the cost and income capitalization approaches were not applicable to this appraisal assignment because of the limits imposed by the statute governing billboard tax assessment, and that Hall's use of the sales comparison approach was therefore appropriate. In Correll's opinion, Hall's appraisal also satisfies USPAP standards. But Correll explained that he identified three areas of concern he felt undermined the reliability and credibility of Hall's appraisal. First, Correll expressed concern that several of the comparable sales Hall selected were not truly comparable to Site #1. He acknowledged that the number of comparable sales was limited, but felt Hall failed to analyze them thoroughly. His second concern was that while Hall spent considerable time talking about the various qualitative adjustments he had considered, he never actually adjusted any of the sales prices. Finally, Correll was concerned that Hall used a flawed methodology to calculate his values. In Correll's view, simply basing an opinion of value on selected averages of unadjusted sales leads to skewed results. *Correll testimony-Site #'s 2, 4, 5.*

**a. Review of Valuation #1**

36. Correll began his review of Hall's first valuation technique by discussing Comp #1. Correll agreed with Hall's ultimate decision to disregard the sale when developing his

value conclusion because it involved the value of a leased-fee interest that Indiana law requires appraisers to disregard when valuing billboard properties. But Correll explained that Comp #1 is also not a good comparable because it sold for a price way outside of the range of the rest of Hall's comparable sales. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 55, 69, 84.*

37. Comp #2 raised numerous concerns for Correll. He stated that he had researched the property and learned that in addition to the 2012 sale Hall used, the property had also sold in 2009. Correll spoke to the former owner, Louis O'Donnell. According to O'Donnell, he purchased the property for \$5,000 in 2009 and started working to get the site permitted for a digital billboard. Acquiring the permit involved survey costs, legal costs, and numerous hearings, with no guarantee of success. O'Donnell then sold the property and the rights to the digital billboard permit to Lamar (TLC) in 2012. O'Donnell stated that Lamar was motivated to purchase the digital rights because the company had business plans involving a large national rollout of digital advertising for one of its clients. O'Donnell also indicated that the digital permitting rights represented the bulk of the value and were transferable to another location within the immediate area. Correll also obtained an affidavit from O'Donnell. In his affidavit, O'Donnell declares that he purchased the property for \$5,000 in 2009, and then sold the property to TLC for \$5,000 in 2012. In addition to the property itself, however, the 2012 sale also included the transfer of O'Donnell's rights to the digital billboard permits issued by the City of Lake Station and the Indiana Department of Transportation to TLC for an additional sum of \$145,000. *Correll testimony-Site #'s 2, 4, 5; Pet'r Exs. P-E tab 7, P-C.*
38. Correll also spoke with Jim Perry, a Real Estate Manager at Lamar who was involved in the 2012 purchase of Comp #2 on behalf of the buyer. Perry explained that O'Donnell had purchased the land and worked to obtain the proper permits, including digital rights, but did not have the capital to construct a sign on the site. With the zoning and permitting completed, the property was a turnkey site, making it more appealing to Lamar. Unlike O'Donnell, Perry thought that it might take another permit or meeting to

transfer a digital billboard permit to another site. Correll also noted from his research that digital, two-sided signs are capable of displaying up to six advertisements on each side, as opposed to the two advertisements on a fixed-image, two-sided billboard. Correll believed that the mix of motivated parties, existing permits, and enhanced potential advertising revenue, had a substantive effect on the 2012 sale. He felt that the \$150,000 sales price required adjustments to remove the value attributable to these factors. Correll also explained that there was initially a digital billboard on the site. Because the sign underperformed, it was converted to a regular sign in 2015. *Correll testimony-Site #6; Correll testimony-Site #'s 2, 4, 5; Pet'r Exs. P-E tab 8.*

39. Correll identified several problems with Comp #3. He interviewed Jason Weisler, an attorney and managing partner of the current property owner, Wicker Avenue Development (“Wicker”). He also spoke with Matt Felder, a real estate manager for View Outdoor Advertising (“View”), the company that leases the property from Wicker for billboard use. Both men told Correll that Wicker purchased the property in 2008 with the intention of acquiring another adjacent property for assemblage and development into a larger retail site. Wicker did not contemplate erecting a billboard on the site prior to the purchase. But Wicker later decided to lease the site to View in order to defray carry costs while the company attempted to purchase the adjacent property needed for their development plans. Based on this information, Correll expressed concern that Hall had not properly adjusted the sales price to reflect Wicker’s motivation to buy the property. He also explained that this sale was not a reliable comparable sale because it is a large 1.21-acre parcel, and only a small portion of the land was later required for View’s billboard. In contrast, Site #1 is only 0.56 acres in size. Correll further questioned why Hall made no adjustment for this difference in size. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 8; P-E tab 9 at 56, 70, 85.*
40. Correll’s review of Comp #4 led him to believe that the buyer may have purchased this property for broader business development rather than billboard use. He therefore felt the purchase price was not indicative of the value of land for a billboard site. Correll also

explained that the billboard that exists now is located along the edge of the property, leaving additional land open for potential development. Correll was concerned that Hall failed to account for the contributory value of the additional land. He concluded that Hall should have conducted further research into the purchase and intended use of the property. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 56, 70, 85.*

41. Part of Correll's research into Comp #5 involved an interview with Jim Carlino, a staff attorney with Scannell Properties. Carlino had been involved in the purchase as an agent for the buyer, Seventy Thirty-Nine Commerce Park Associates, LLC. He stated that the buyer purchased the property as part of a land assemblage, with no intention to put it to use as a billboard site. Nevertheless, Correll agreed that it was a good comparable sale. But Correll was still troubled by the fact that Hall made no adjustments for the market, traffic counts, or more critically, for buyer motivations. Correll also expressed his opinion that the sales involving raw land or vacant sites capable of supporting a billboard, such as Comp #5 (and Comp #'s 6, 7, and 8), were more representative of the type of comparable sales that Hall should have used. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 59, 73, 88.*
42. The only two issues Correll identified with regard to Comp #6 were that it was an older sale (March 2004), and that it was a much larger site (1.94 acres) than Site #1. Correll explained that under USPAP and generally accepted appraisal practices, a sale this old (more than 10 years before the relevant valuation dates) would require a time adjustment and would need to be considered with caution. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 60, 74, 89.*
43. Correll agreed that Comp #'s 7 and 8 were both generally comparable to Site #1 and appropriate to use in calculating a value. Correll found Comp #9 to be a relevant comparable sale as well. However, he faulted Hall for not making adjustments to account for the property's comparatively large size (3.44 acres), or the motivation of the buyer who was an adjacent landowner. Correll also explained that he would completely

exclude Comp #9 from consideration because it had the lowest price per square foot of all of Hall's comparable sales. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 60, 61, 74, 75, 89, 90.*

44. After reviewing all of Hall's comparable sales, Correll was of the opinion that the most applicable sales Hall used were Comp #'s 5, 6, 7, and 8. He felt that there were too many unanswered questions concerning the sales of Comp #'s 2, 3, and 4 for them to be reliable. Through his own research of the market in the northern half of Indiana, Correll located an additional comparable sale that he felt Hall should have relied on. It is located along U.S. Highway 12 in the Lake Station area and had a traffic count of approximately 23,000/day. The property was purchased as a billboard site for \$0.28/SF in 2011. Including this additional sale in a grouping with Comp #'s 5, 6, 7, and 8 produces a narrower price range of \$0.28 to \$0.54 before adjustments. And the average of these five sales is \$0.40/SF compared to Hall's \$3.53/SF estimate in Valuation #1. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-E tab 9 at 62-65, 76-79, 91-94; Pet'r Ex. P-E tab 13.*
45. Correll also briefly discussed the use of traffic counts as an element of comparison. He thinks that traffic counts are a good element of comparison, and he further acknowledged that a higher traffic count could equate to a higher value for Site #1. Nevertheless, Correll felt that the correlation between traffic counts and value was not as strong as Hall suggested. He explained that even if it was, the data supported a correlation of traffic counts for Site #1 to a much lower value per square foot. Correll produced a hand-drawn diagram showing the range of traffic counts and sales prices for Comp #'s 2-9. He believed that the correlation was not as significant as Hall's chart suggests because using Comp #2's actual land price of \$0.19/SF (per O'Donnell's \$5,000 allocation for land) yields a much lower sales price per square foot in comparison to the sales prices of the other comps with traffic counts in the 20,000 to 35,000 range. *Correll testimony-Site #'s 2, 4, 5; Pet'r Ex. P-F.*

46. Correll reiterated that Hall's appraisal followed USPAP Standards, and that Hall's method of using plus, minus, and equal signs to describe qualitative adjustments was an accepted method under USPAP. While Hall's method may be appropriate, Correll was nevertheless concerned by the fact that Hall never actually adjusted his comparable sales' per square foot prices. He stated that Hall's use of the original, gross sales prices did not provide accurate adjusted values. It also left a very wide gap in the overall price range of the properties Hall used. Using quantitative adjustments was not only possible in this case, but was necessary to properly adjust the sales prices. In Correll's opinion, taking the averages and mid-points of unadjusted prices with such a wide range of values is such a flawed methodology that it renders Hall's final value conclusions unreliable. *Correll testimony-Site #'s 2, 4, 5.*

**b. Review of Valuation #2**

47. Valuation #2 used a subset of the comparable sales Hall used in Valuation #1, and Correll felt it lacked credibility for many of the same reasons. Specifically, Correll felt Comp # 1 (Comp # 2 in Valuation #1) lacked credibility because it involved the sale of permits and licensing. He also took issue with Comp #'s 2 and 3 (Comp #'s 3 and 4 in Valuation #1) because the sales included additional land capable of supporting future development. Additionally, Correll raised the same concerns regarding the lack of adjustments. *Correll testimony-Site #'s 2, 4, 5.*

**c. Review of Valuation #3**

48. Correll also expressed concern with Hall's Valuation #3 in which Hall used the sale of one property with an existing billboard, and attempted to remove the depreciated value of the billboard to arrive at a land-only value. Correll stated that, on a general level, the fewer properties an appraiser uses, the less reliable the result is likely to be. And because Hall had a number of comparable sales with good data to choose from, Correll questioned the need to develop this particular method at all. *Correll testimony-Site #'s 2, 4, 5.*

#### IV. ANALYSIS AND CONCLUSIONS OF LAW

##### A. TLC'S VOLUNTARY DISMISSAL

49. On February 27, 2018, TLC filed a Voluntary Dismissal with the Board purporting to dismiss these petitions pursuant to 52 IAC 2-1-2.1 and Rule 41 of the Indiana Rules of Trial Procedure.
50. The Assessor objected to dismissal. In the Assessor's responsive pleadings, he argued that TLC does not have an automatic right to withdraw its appeals, Lake County taxpayers have incurred substantial expense in preparation for this hearing, and that it would be inequitable to allow dismissal at such an advanced stage after the expenditure of taxpayer funds. In support, the Assessor specifically alleged the following:
- he incurred the expense of obtaining an appraisal covering the parcel under appeal (attached to his objection as Exhibit A);
  - he sought an appraisal due to the Board's strong preference for appraisals;
  - he provided a copy of the appraisal to TLC on or about January 31, 2018;
  - he, along with his attorneys and appraiser, have expended significant time, effort, and expense to prepare for the hearing, including a \$900 fee charged by Hall for preparation of his appraisal report for Site #1; and
  - if the Board allows TLC's dismissal, he can and will increase the property's 2016 value under Ind. Code §§6-1.1-9-1 and -4, which might trigger an appeal to the Board for the same assessment and cause the parties and the Board to expend additional time and expense to resolve an appeal that is already before it.
51. In TLC's various responsive pleadings, it primarily argued that (1) our procedural rules allow for dismissal; (2) the Assessor failed to demonstrate the substantial expense or legal prejudice required by Tax Court precedent; (3) the \$900 appraisal expense was not substantial because it amounted to less than one-tenth of one percent of the Assessor's 2017 budget; and (4) dismissal should result in significant savings by avoiding the appraiser testimony fees and attorney fees needed to litigate the case.
52. We did not issue an order on the issue prior to the hearing on March 8, 2018. After allowing both parties to present additional argument on their respective positions at the beginning of the hearing, our ALJ took the issue under advisement.

53. In *Joyce Sportswear*, the Indiana Tax Court established the standard for the denial of a voluntary dismissal. *See Joyce Sportswear Co. v. State Board of Tax Commissioners* 684 N.E. 2d 1189 (Ind. Tax Ct. 1997). In that case, the Court addressed whether the taxpayer could withdraw its petition under Ind. Trial Rule 41(A), which is applicable to the Board's proceedings under 52 IAC 2-1-2.1. The Court held that a voluntary dismissal should be denied if the respondent "can demonstrate either substantial expense or legal prejudice." *Id.* at 1193.
54. Here, TLC waited until just eight days before the scheduled hearing to file its voluntary dismissal. At that advanced stage of the proceedings, we had already conducted multiple prehearing conferences with the parties and issued a Case Management Plan and an Order addressing TLC's Motion concerning the burden of proof. While we recognize that those orders also addressed additional petitions pending before the Board, to allow TLC to withdraw the two petitions at issue in the case at such an advanced stage would mean the Board and the parties squandered substantial time and effort. *See Id.* at 1193-94 (stating that a substantial waste of time and effort constitutes a substantial expense).
55. Additionally, Assessor paid \$900 for an appraisal that he exchanged with TLC on or about January 31, 2018. Even if that amount is less than one-tenth of one percent of the Assessor's 2017 budget, we nevertheless think it is substantial. After taking the lost time and effort and the cost of the appraisal into account, we find Assessor has provided a strong showing of substantial expense.
56. A showing of legal prejudice can also provide an independent ground for the denial of a voluntary dismissal. *Id.* at 1194. Because the Assessor is time-barred from increasing the 2015 assessment retroactively, allowing TLC to withdraw its 2015 petition would foreclose the Assessor's ability to seek an assessment increase for 2015. We therefore find the Assessor has demonstrated legal prejudice regarding withdrawal of the 2015 petition.

57. Furthermore, the Assessor's argument regarding the possibility of the 2016 assessment returning to us following any increases he imposes under Ind. Code §§6-1.1-9-1 and -4, while speculative, is well taken. In order to avoid the expenditure of additional time and resources by the Board and the parties, we find that judicial economy compels denial of TLC's voluntary dismissal of its 2016 petition as well.

58. Because the Assessor demonstrated both substantial expense and legal prejudice, and because it preserves the Board's and the parties' limited resources, we deny TLC's voluntary dismissal.

**B. OBJECTIONS**

59. While neither party objected to any of the documentary evidence included in record, there were multiple objections to questions posed to witnesses in the hearings for Site #'s 2, 4, and 5, and one during the course of this hearing. Most of those objections dealt with the form of the questions or with claims that certain questions went beyond the scope of the prior examination. We need not revisit these objections, and we adopt the ALJ's rulings.

**C. BURDEN OF PROOF**

60. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d).

61. On December 15, 2017, our ALJ issued an Order taking TLC's Motion for Determination Concerning Burden of Proof under advisement. TLC stipulated that it bears the burden of proof for 2015 because the assessment did not change from 2014 to 2015. However,

because the Assessor seeks values higher than the original assessments, he ultimately bears the burden of proving any increase for both years under appeal.

**D. TRUE TAX VALUE**

62. Indiana assesses property based on its “true tax value,” which is determined under the rules of the Department of Local Government Finance (“DLGF”). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). True tax value does not mean “fair market value” or “the value of the property to the user.” I.C. § 6-1.1-31-6(c) and (e). The DLGF defines “true tax value” as “market value-in-use,” which it in turn defines as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” 2011 REAL PROPERTY ASSESSMENT MANUAL 2. Evidence in an assessment appeal should be consistent with that standard. For example, USPAP-compliant market-value-in-use appraisals often will be probative. *See id*; *see also, Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005).
63. Regardless of the method used to prove true tax value, a party must explain how its evidence relates to the property’s value as of the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2015 and 2016, the valuation dates were March 1, 2015 and January 1, 2016, respectively. Ind. Code § 6-1.1-2-1.5(a).

**E. VALUATION EVIDENCE**

64. Like Hall, Correll found Indiana Code § 6-1.1-4-45 to be applicable to this case. That statute generally provides that the value of an outdoor sign, and any associated lease, easement, and income, shall be disregarded when assessing the land on which the outdoor sign is located:

- (a) This section applies to assessment dates after December 31, 2014.
- (b) As used in this section, "sign site" means the land beneath an outdoor sign that accommodates the outdoor sign display structure and foundation under a lease or a grant of an easement.
- (c) An outdoor sign, and any associated lease, easement, and income, shall be disregarded for the purpose of determining an assessment of the land on which the outdoor sign is located, if:
  - (1) the sign site does not exceed the greater of:
    - (A) one-fourth (1/4) of an acre; or
    - (B) if the sign site exceeds one-fourth (1/4) of an acre, the area that is reasonably necessary to facilitate display of the outdoor sign; and
  - (2) the subject matter of the outdoor sign relates to products, services, or activities that are sold, produced, or conducted at a location other than the land for which the assessment is being determined.

Ind. Code § 6-1.1-4-45. Because of the limits imposed by the statute, Correll approved of Hall's decision to rely solely on the sales comparison approach to value Site #1.

- 65. Correll also agreed that Hall's appraisal satisfies USPAP standards. However, Correll identified three major areas of concern with Hall's appraisal. In his opinion, several of Hall's comps were not truly comparable to Site #1. Correll also criticized Hall's use of qualitative adjustments for failing to actually adjust any of the comps' sales prices. Finally, Correll felt Hall's use of selected averages of unadjusted sales to calculate his value conclusions led to flawed results.
- 66. As discussed in more detail below, there is some merit to Correll's criticisms regarding two of the property's Hall used to reach his value conclusions, but those criticisms do not undermine the credibility of Hall's appraisals. Many of Correll's adjustment-related concerns relate to his disagreement with Hall's broader decision to use qualitative adjustments instead of quantitative adjustments. But Correll acknowledged that USPAP recognizes qualitative adjustments as an acceptable method to adjust for differences. Moreover, Hall's adjustments simply came in the form of narrowing the comps he used to calculate averages instead of the dollar adjustments typically made in the quantitative method. We conclude that Hall's methods produce credible valuations.

**a. Correll's Criticisms of Hall's Comparable Sales**

67. Correll agreed with Hall's decision to disregard Comp #1 because it involved the value of a leased-fee interest that must be disregarded for assessment purposes under Indiana Code § 6-1.1-4-45. Because Hall did not rely on it and gave it no weight when developing his value conclusions, we need not discuss it further.
68. Of Hall's remaining comps, Comp #2 has the highest per square foot land value. Hall reviewed its purchase agreement and sales disclosure form and found no indication that the sale included anything more than the transfer of bare land. He therefore used the property's full purchase price of \$150,000 to calculate a price per square foot. However, Hall admitted that he failed to verify the transaction with either party, and that the purchase agreement might have included the transfer of billboard permits and other related rights to the buyer. As part of his review of Comp #2, Correll contacted the seller and a representative for the buyer. They both confirmed that the sale involved the transfer of certain rights related to digital billboard permits issued by the City of Lake Station and the Indiana Department of Transportation ("INDOT").
69. While the permit rights may have added measurable value to the transaction, we are unwilling to accept the seller's allocation of value between the real property and the permit rights (\$5,000 versus \$145,000, respectively) without further explanation. At \$5.62/SF, Hall did not place significant weight on Comp #2 in arriving at \$2.79/SF under Valuation #1. Likewise, valuing Comp #2 at \$5,000 would result in an outlier as well (\$0.18/SF). We therefore find Hall's use of Comp #2's full \$150,000 purchase price does not substantially discredit his analysis.
70. Turning to Comp #3, Correll expressed concern that Hall had not properly adjusted its sales price to reflect the buyer's motivation to purchase the property. Correll also found the sale to be unreliable because only a small portion of the land was later required for billboard use, and because Hall made no size adjustments. Although we share Correll's

general concerns about the amount of land needed to support a billboard, we nevertheless find Comp #3 to be a credible sale. And it is one of the few sales in the same market area (Chicago MSA) as the Sites. Comp #3's acreage also fell well within the range of site sizes Hall identified in his market segmentation analysis (up to 3.50 acres per site or sign structure). Hall's market segmentation analysis also supports his decision to rank it as equal when making his qualitative adjustments for size.

71. Correll felt Comp #4's purchase price was not a good value for the land because the buyer may have purchased this property for broader business development rather than billboard use. But the fact that the site has not been developed with anything other than a billboard undercuts his claim. So does the fact that Correll described Comp #5 as a good comparable despite having confirmed that the buyer purchased it as part of an assemblage with no intention to erect a billboard. Correll also thinks Comp #4 has additional land for development because the existing billboard is located along the edge of the property. However, as with Comp #3, the property falls within the range of site sizes Hall identified in his market segmentation analysis as appropriate for billboard sites. Importantly, it is also one of the few sales located within the Chicago MSA. Thus, we cannot say that Hall erred by including it in his valuation.
72. Correll agreed that Comp #5 is a good comparable. In fact, he thinks that sales involving raw land or vacant sites capable of supporting a billboard, such as Comp #'s 5, 6, 7, and 8 are more representative of the type of comparable sales that Hall should have used. All the same, he found the lack of adjustments for the market, traffic counts, and buyer motivations troubling. Because Hall made qualitative adjustments for the market and traffic counts, we are not so troubled. Moreover, while buyer motivations might be an appropriate consideration, Correll pointed to no authority specifically requiring appraisers to make adjustments for it in all circumstances.
73. Correll's primary issue with Comp #6 was that the sale occurred in March of 2004. He explained that USPAP and generally accepted appraisal practices dictate that a sale this

old requires a time adjustment. However, Hall did make an adjustment to account for the market conditions. It just took the form of a qualitative adjustment instead of the quantitative adjustment Correll would prefer.

74. Correll also found Comp #'s 7, 8, and 9 to be generally comparable to Site #1. But he would have excluded Comp #9 from the pool of comps because it has the lowest price per square foot. He also faulted Hall for not making adjustments to account for the property's large size and the buyer's motivation to purchase it. We see no reason to exclude the sale simply because its price per square foot falls at the low end of Hall's comps. We also note that the additional comparable sale Correll identified and thought Hall should include sold for the same price per square foot. And as with previous comps we have discussed, the property is within the applicable range of site sizes Hall identified in his market segmentation analysis. We find nothing wrong with his decision to rank it as equal on his adjustment grid.
75. Of the comps Hall used in Valuation #1, Correll thought that Comp #'s 5, 6, 7, and 8 were the most applicable to the valuation assignment. But we see no reason to credit Correll's judgment over Hall's, particularly when all of the comps Correll would select came from the least relevant market areas.
76. Because Valuation #2 used a subset of the same sales Hall used in Valuation #1, we need not repeat our findings with regard to the comparability of those particular comps. However, Hall analyzed an additional comparable sale to complete Valuation #3. The sale involved an existing billboard site located in Lake Station. To determine the price paid for the land, Hall used the abstraction method to estimate and deduct the contributory value of the billboard sign from the total purchase price.
77. TLC attempted to cast doubt on Hall's estimate by submitting a signed copy of a sales disclosure form for the transaction showing the parties allocated \$2,000 of the purchase price to the land and \$130,000 to personal property. As part of his research, Hall had

reviewed a different sales disclosure form indicating that the sale included personal property, but not disclosing how the parties allocated the purchase price between the real and personal property. Hall acknowledged, however, that the form he reviewed was unsigned and that he did not contact the parties to verify the sale.

78. While Hall may have erred in relying on an unsigned form, we are not willing to accept the allocation shown by TLC's version of the form without further explanation. The county permit records revealed that the sign's estimated cost new was approximately \$55,000 in 2006, and TLC did not demonstrate that the value of a sign increases over time. Nor did it really criticize Hall's replacement cost estimate in which Hall applied 10% *depreciation* to account for the five years between the sign's installation and the sale date. Despite accounting for depreciation, Hall's estimated cost new for the sign still came in \$5,000 higher than what the county permit records showed. And the sign was almost four years older by the relevant valuation date, presumably making the sign worth even less. We also note that Hall used this valuation method as a test for reasonableness, and it only had a minor effect on Hall's reconciled per square foot value. Consequently, we see little reason to reject Valuation #3.

**b. TLC's Additional Arguments**

79. In addition to the concerns raised by Correll, TLC advanced a couple of related legal arguments in its post-hearing brief that we will briefly address. First, TLC argued that Hall failed to follow Indiana Code § 6-1.1-4-45 by selecting comps that included billboard sign sites with existing signs and/or permits for such signs. TLC acknowledges that Hall properly disregarded associated leases, easements, and income from the billboards, but faults Hall for not explicitly stating that he ignored the signs anywhere in his report. TLC further claims that Hall admitted that he did not disregard the billboards.
80. TLC's argument rings hollow. Hall specifically testified that he disregarded the value of the billboard signs; the fact that he considered their mere existence is not concerning.

Moreover, Hall's ambiguous response to TLC's poorly worded question about the issue does not discredit his prior testimony.

81. TLC also misstates and then misinterprets the statutory language as excluding the use of properties with existing signs or sign permits as comparable sales. The quote of the statutory language in TLC's brief reads, "an outdoor sign and any associated lease, easement and income shall be disregarded for purposes of determining the assessment of land on which an outdoor sign is located." *Pet'r Post-Hearing Brief at 13*. The relevant portion of that sentence actually reads: "[a]n outdoor sign...shall be disregarded for *the purpose* of determining *an* assessment of *the* land on which *the* outdoor sign is located." I.C. 6-1.1-4-45(c) (emphasis added).
82. Thus, the sole focus of the statute is on the individual parcel that we are assessing, not potential comps. And it simply requires that we disregard the value of an existing sign located on the particular parcel being assessed, along with the value of any leases, easements, or income associated with it, presumably because those items are assessed as personal property. The universe of potential comps is therefore not limited to sales of bare land as TLC suggests. As long as an appraiser removes any value attributable to the personal property items excluded by the statute, a property used or permitted as a billboard site can serve as a comparable sale. As this case illustrates, however, appraisers need to use caution to ensure that they have truly done so.
83. Second, TLC asserted that Hall improperly analyzed the value of the land with respect to a specific user (Lamar) in violation of Indiana Code § 6-1.1-31-6(e), which provides that true tax value does not mean the value of the property to the user. While Hall certainly discussed Lamar, those discussions do not lead us to conclude that Hall valued the property to reflect anything other than its current use.
84. Overall, the Board was presented with only one appraisal, which the review appraiser agreed was USPAP-compliant. A probative appraisal need not be perfect. Valuing a

billboard parcel is a difficult appraisal question with limited data, and there is little authority on the issue. Hall presented a sufficient valuation and the Board adopts it.

#### V. CONCLUSION

85. Despite the flaws present in Hall's appraisal, it is still credible evidence of Site #1's true tax values. We therefore order the assessments under appeal changed to the following values:

<b>Year</b>	<b>Parcel Number</b>	<b>Parcel Name</b>	<b>Land</b>	<b>Improvements</b>	<b>Total</b>
<b>2015</b>	45-08-26-128-023.000-018	Site #1	\$73,000	\$0	\$73,000
<b>2016</b>	45-08-26-128-023.000-018	Site #1	\$74,460	\$0	\$74,460

This Final Determination of the above-captioned matter is issued by the Board on the date first written above.

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.